

KENTUCKY DEPARTMENT OF EDUCATION

STAFF NOTE

Action/Discussion Item:

704 KAR 7:101, Repeal of 704 KAR 7:100, Approval of operation of alternative education programs for purposes of driver's license revocation (Final)

Applicable Statute or Regulation:

KRS 159.051, KRS 186.440, KRS 156.070

Action Question:

Should the Kentucky Board of Education approve 704 KAR 7:101 that repeals 704 KAR 7:100, a regulation that is no longer necessary since the statute it originally implemented has since been determined to be unconstitutional?

History/Background:

Existing Policy. The first legislation related to this issue, known as No Pass, No Drive (KRS 159.051), was enacted in 1990. The legislation called for a driver's license to be denied or revoked when a student was determined to be academically deficient (failing grades in four classes in a school semester) or the student had accumulated nine or more unexcused absences in the preceding semester. The original No Pass, No Drive legislation only applied to school districts that had alternative education programs. A related regulation, 704 KAR 7:100, included the same provision requiring alternative education programs. In December 2003, the Kentucky Supreme Court ruled the No Pass, No Drive law unconstitutional after a class action suit was filed. In part, the Kentucky Supreme Court found the law unconstitutional because it only applied to those students in districts that offered alternative education programs.

In March 2007, a new version of No Pass, No Drive was enacted. The new legislation included a modification of KRS 159.051 eliminating the requirement for alternative education programs for school districts wanting to participate in No Pass, No Drive. The new No Pass, No Drive law will apply to all schools.

No changes have been made to the repealer regulation since the Board's review in June. It now comes forward for final approval at the August meeting.

Staff Recommendation and Rationale:

Staff recommends final approval of 704 KAR 7:101. 704 KAR 7:100 is no longer relevant to the revised No Pass, No Drive legislation enacted in 2007.

Groups Consulted and Brief Summary of Responses:

The Local Superintendents Advisory Council will send its recommendation to the Board via letter prior to the August meeting.

Impact on Getting to Proficiency:

KRS 159.010 (No Pass, No Drive) is a dropout prevention program with a goal of keeping students in school until graduation.

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Date:

August 2007